

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

GHR Systems, Inc.,

Plaintiff,

v.

Wealthspring Mortgage Corporation,
Richard C. Anderson and Michael
McVay,

Defendants.

**MEMORANDUM OPINION
AND ORDER**

Civil No. 06-3549 ADM/AJB

Jaren L. Johnson, Esq., BenePartum Law Group, P.A., Eagan, MN, argued on behalf of Plaintiff.

Shelley M. Ryan, Esq., Skolnick & Associates, P.A., Minneapolis, MN, argued on behalf of Defendants Wealthspring Mortgage Corporation and Richard C. Anderson.

I. DISCUSSION

Oral argument was heard today before the undersigned United States District Judge regarding Defendants Wealthspring Mortgage Corporation and Richard C. Anderson's (collectively, "Defendants"¹) "Amended Motions to Dismiss and for a Protective Order" [Docket No. 7] and Defendants' Motion to Strike Plaintiff's Response [Docket No. 22].

Defendants move to dismiss Counts Two, Three, and Five (collectively, the "challenged Counts") of Plaintiff GHR Systems, Inc.'s Complaint (Notice of Removal [Docket No. 1] Ex. A). As stated at oral argument, the Court agrees that the challenged Counts are not adequately pled. At this early stage of the litigation, however, the Court finds that Defendants will not be prejudiced if Plaintiff is granted ten days to amend its Complaint. Therefore, Defendants'

¹ Named Defendant Michael McVay is not yet a party to this action since he has not been served properly. Therefore, the term "Defendants" in this Order does not include Michael McVay.

Motion to Dismiss is denied conditional on Plaintiff amending its Complaint regarding the challenged Counts. If a challenged Count is not amended then it will be dismissed.

Given this ruling on Defendants' Motion to Dismiss, the Court denies Defendants' Motion to Strike as moot. Also, Defendants' Motion for a Protective Order staying discovery is denied as moot, since at oral argument counsel for both sides agreed that discovery should proceed regarding the remaining Counts in the Complaint.

II. CONCLUSION

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendants' Amended Motion to Dismiss [Docket No. 7] is **DENIED** **CONDITIONAL ON PLAINTIFF FILING AN AMENDED COMPLAINT**. Plaintiff has 10 days to amend its Complaint.
2. Defendants' Amended Motion for a Protective Order [Docket No. 7] is **DENIED** as moot.
3. Defendants' Motion to Strike Plaintiff's Response [Docket No. 22] is **DENIED** as moot.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: December 5, 2006.